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on Award Determinations in a Product Liability Case

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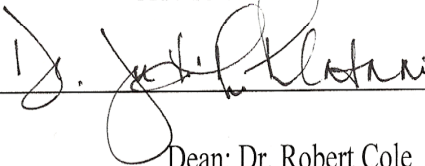
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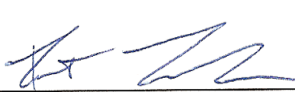
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Abstract

Research has established that pre-trial publicity increases potential jurors' awareness to factors that may or may not become evidence at trial. The purpose of the present study was to examine how variations in prior notification of a civil settlement would influence juror decision-making. A sample of jury eligible students ($N = 123$) read one of three news summaries in which the settlement amount (\$14.75M v. \$4.25M v. \$800,000 v. Control) and prior notification (3 Day v. 3 Week Delay) were manipulated. Results indicated that similar to pre-trial publicity, jurors utilized prior information as a basis for determining award. In addition, participants who experienced a 3-day delay were significantly more likely to award a greater amount in compensatory damages compared to those who experienced a 3-week delay.

Keywords: pretrial publicity, voir dire, liability

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Overview

The Sixth Amendment of the United States Constitution grants individuals the right to a speedy and public trial by an impartial jury in the venue where the crime has been committed (Ruva, McEvoy, & Bryant, 2007). One factor that may infringe upon an individual's right to an impartial jury is pretrial publicity. If an individual is exposed to pretrial publicity, there is the potential that information they receive beforehand may influence him or her in the decision making process, thus rendering them impartial. It has been suggested that pretrial publicity has a significant influence on juror perceptions of the defendant's likability, sympathy for the defendant, as well as perceptions of the defendant as a criminal (Studebaker & Penrod, 1997). Pretrial publicity is perhaps one of the greatest obstacles that a defendant must face. This is because of its biasing effects on jurors' verdicts as well as award (Studebaker, Robbennolt, Pathak-Sharma, & Penrod, 2000). Numerous methods have been used to decrease the effect of pretrial publicity, such as specific instructions to disregard any previous information they may have seen, heard, or read about the upcoming trial. However, even with instructions research findings negative effects of exposure to pretrial publicity (Bornstein, Whisenhunt, Nemeth, & Dunaway, 2002).

The Impact of Pretrial Publicity in Criminal Cases

Pretrial publicity does more than just affect the jurors; it also greatly affects the defendant. In their study, Daftary-Kapur, Dumas, and Penrod (2010) concluded that pretrial publicity affects an individual's right to a fair trial since it can influence their decision. These researchers noted the importance of effective remedies in order to reduce the effect that the media has on decision-

making. There are numerous aspects of pretrial publicity that can effect the decisions of jurors, such as the manner in which the defendant is presented. Hope, Memon, and McGeorge (2004) found that those individuals who were given negative information about the defendant were more likely to give a guilty verdict compared to the non-exposed control group. They also found that the party who was portrayed in a more favorable light was more likely to not receive a guilty verdict. This study demonstrates the negative and damaging effects that pretrial publicity can have, particularly for the defendant. Similarly, Ruva et al. (2007) found that jurors who were exposed to negative pretrial publicity directed toward the defendant were significantly more likely to decide on a guilty verdict, find the defendant to be less credible, and heavily consider the information that was only presented in the pretrial publicity compared to jurors not exposed. This study suggests that jurors closely examine pretrial publicity and as a result, it has a great effect on the verdict given. Ruva and McEvoy (2008) support this claim in research examining the role of negative pretrial publicity on perceptions of trial-related factors. They gave mock jurors news articles with negative pretrial publicity, positive pretrial publicity or neutral information. After a short time span the participants viewed a videotape of a murder trial in which they had to assess guilt. It was found that pretrial publicity effected perceptions of guilt, credibility, the prosecutor, and the defense. In addition, the researchers also argued that being exposed to pretrial publicity increased the chances of participants believing that media information was actually presented in the court case when it was not. Time span was also found to have an effect. Increased memory errors occurred with those who were exposed to a longer time span between the publicity and murder trial. In addition, pretrial publicity in any form was suggested to effect juror's perceptions. This is because a time lapse between the pretrial publicity and the actual case causes distortions in memory, which can alter the verdict.

Pretrial publicity about the plaintiff has also been found to greatly influence juror's attitudes regarding the defendant. Otto, Penrod, and Hirt (1990) exposed participants to negative pretrial publicity regarding the defendant and plaintiff's negligence. However, it was found that only the pretrial publicity about the plaintiff influenced the juror's perception of the defendant's negligence. Jurors found the defendant less negligible when they were exposed to negative information about the plaintiff such as police reports. This may suggest that no matter who is targeted by pretrial publicity, negative media reports rather than neutral, have a greater influence on jurors and defendants. However, in Kovera (2002) participants who watched a rape case that was pro-defense were significantly more likely to decide that in order to confidently convict the defendant, that more evidence would be needed when compared to participants who watched a pro-prosecution rape case. This suggests that information directed at either party can have negative effects. Information can be skewed to present one party in more favorable light, which perhaps is one reason why pretrial publicity has such strong effects.

Pretrial publicity has consistently been found to have a detrimental impact on juror decision-making. Studebaker and Penrod (1997) argue that most jurors are not able to leave their biases from pretrial publicity, even when asked if they are impartial and respond that in fact, they are. In the trial of *Sheppard v. Maxwell* (1966) the Court reversed a murder conviction due to the fact that the defendant was heavily portrayed in the media in a negative manner (Studebaker & Penrod, 1997). In addition, the case of *Rideau v. Louisiana* (1963) also involved a great deal of pretrial publicity. When the Supreme Court considered all the pretrial publicity, they found that it created much prejudice against the defendant and that it was against due process of law if the venue was not changed since the public had been so greatly influenced (Studebaker & Penrod, 1997). More recently, in the case of *Mu'Min V. Virginia* (1991), eight of the twelve jurors

confessed to being exposed to some sort of pretrial publicity such as newspaper articles against the defendant, prior criminal records, and details about the crime. The defendant's Sixth Amendment rights of an impartial jury are clearly being infringed upon, however, the First Amendment also allows for free press. It is argued that free press often results on an individual's infringement of their right to a fair trial, which the effects of pretrial publicity demonstrates.

There are a number of different ways in which pretrial publicity can affect a juror. Kramer, Kerr, and Carroll (1990) examined the effects of pretrial publicity and the damaging effects it can have on jury decision-making. In their study they presented mock jurors with a factual based scenario and an emotional based scenario. They found that mock jurors exposed to emotional based information were more likely to render a guilty verdict when compared to evidence based information. In addition, instructions to disregard previous knowledge of past cases were given to the jurors, however the researchers found that instructions did not reduce the bias effects. What was effective however, was a time span between the pretrial publicity article and the actual trial. This still only pertained to the factual article and not the emotional article. Media can be very dangerous for trials since the media can control what the public sees and how the information is seen. Media regarding civil litigation trials are crucial and must be greatly scrutinized since it is often the only means of individual's information about the case (Robbennolt & Studebaker, 2003). In addition to emotional based information, newspaper articles have suggested to be very influential. Garber (1998) conducted a study on newspaper pretrial publicity of over three hundred personal injury product liability cases that involved automobile manufacturers. It was found that over forty percent of plaintiff wins were covered in magazines and over sixty percent of punitive damage awards. This may suggest that plaintiff wins are overrepresented in the media, which may lead the public to believe that in product liability cases,

the plaintiff is more apt to win. It was also found that as newspaper coverage of a verdict increased, the total amount of damages increased as well. This relation is perhaps due to the constant media coverage of cases influencing jurors into believing that plaintiffs often win and with large amounts of damages awarded. An explanation for this overrepresentation of plaintiff wins and large monetary awards is that newspapers and other media sources must report on stories that will grab the attention of the reader, which cases of little money often do not. With this overrepresentation of large cases, jurors may be more apt to believe that those cases are the norm, which may sway them to be in favor of the plaintiff causing a bias against the defendant.

Pretrial Publicity and Civil Litigation

Much of the research regarding pretrial publicity is based on criminal cases. This brings the question of whether and to what extent research on the effects of pretrial publicity in criminal trials can also apply to civil cases. Bornstein, Whisenhunt, Nemeth, & Dunaway (2002) argue that perhaps civil cases may be even more vulnerable to the negative effects of pretrial publicity because of the constant development of high-profile lawsuits. In addition, they argue that lower standards of proof in civil cases can cause pretrial publicity to have a greater impact than in criminal cases (Bornstein et al., 2002). Landsman and Rakos (1994) studied the effects of prejudicial pretrial publicity and how it can influence the verdict in a product liability case in both judges and jurors. Participants were presented with a scenario with either biased information against the defendant with no instructions to disregard the previous material or biasing information with instructions to disregard. They found that both sets of participants perceived the defendant guiltier in the civil case when they were exposed to biasing information, regardless of what set of instructions they were given. More recently, Bornstein et al. (2002) found that pretrial publicity has an impact on juror's perceptions of liability in a civil trial. Mock jurors who read an

article with negative information regarding the defendant were significantly more apt to find the defendant liable when compared to jurors who read a neutral article. It was also found that participants who were exposed to media that contained negative information about the plaintiff were less likely to find the defendant liable. This may suggest that negative information, whether it is directed towards the plaintiff or the defendant has an influence in juror decision-making.

Much of what the public knows about civil litigation is through the media. Feigenson and Bailis (2001) found that individuals held more negative attitudes towards air bags when they were exposed to news articles regarding information about only the risks of air bags compared to when they were given articles presenting both the risks and benefits. This may suggest that individuals respond more to negative information, which is again harmful to the defendant when negative pretrial publicity is posed against that person. In addition, Saks (1998) found that a sample of first year law students, on average overestimated the amount of money awarded to the plaintiff in injury case that was not fatal. Since media often portrays injury cases as resulting in a large amount of money being awarded to the victim, perhaps these law students were framing the actual amounts usually awarded in injury cases to the cases portrayed in the media, which is misrepresentative of average cases. Many individuals believe that large awards given to plaintiffs as damages are common in the court system (Robbennolt & Studebaker, 2003). This is perhaps due to the large overrepresentation of large cases that media often covers. Individuals are becoming exposed to cases involving significant settlements. As a result, perhaps individuals are believing this to be the norm. In the current study, we varied the amount of money awarded to a plaintiff in a civil settlement in order to specifically examine the role of *framing*. We expected that our sample of mock jurors would base their award determinations in a subsequent civil case on a previously exposed news summary of a civil settlement in a similar product liability case.

Feedback and Framing as Heuristics

The framing effect has been researched using different methods and techniques. Framing takes place when decisions are formed and altered based on how information is presented to an individual (McCloy, Beaman, Frosch, & Goddard, 2010). N.S. Fagley (1993) described the framing effect in terms of how questions are presented to individuals. Fagley argued that if a statement is presented, or framed, in a positive manner, then the individual will consider the situation to be a gain whether or not it is actually a gain or a loss (Fagley, 1993). This applies to pre-trial publicity and prior notification since the media can alter information and frame it in a manner that presents the defendant or any other part of the trial in any way that the media desires. This in turn may influence jurors to respond in a biased fashion rather than a true application of the law. The media and prior notification of information can have detrimental effects since individuals can be influenced to how the media presents and frames the information.

More currently, Bohner, Dykema-Engbladem Tindale and Meisenhelder (2008) conducted research examining the framing effect regarding consensus information. Research has indicated that individuals base their opinions about ideas or statements in terms of how popular that idea is and how many people accept it to be true (Bohner et al., 2008). In addition, the researchers argued that individuals are accuracy or sociorelational driven (Bohner, et al., 2008). Seeking accuracy is described as when individuals base the validity of information on the majority of opinion. On the other hand, some individuals are sociorelational driven and seeking connectedness within a certain group, which is also referred to as Moscovici's (1980) conversion theory (Bohner, et al., 2008). In their study, the researchers found that when the information presented was framed in terms sociorelational terms, such as pointing out the similarities

between the information and the individual receiving it, the participants reflected the conversation theory. In addition, when the information was framed in terms of accuracy, participants formed opinions based on the majority (Bohner et al., 2008). This greatly applies to pre-trial publicity since the media often covers trials that include a great deal of money being awarded to the plaintiff. Individuals may see large amounts of money being awarded to be the norm in civil litigations since that is what they are exposed to in the media.

The manner in which questions and information is presented, can drastically alter an individuals response to that information. McCloy et al. (2010) researched the recognition heuristic and how changing the framing of questions can reduce this phenomenon. The recognition heuristic states that if a person recognizes a name or information, then that individual will evaluate it as being higher or worth more. The researchers framed questions as either what city has the highest population, or what city has the lowest population. They found that when the question was framed in a positive manner (greater population), individuals identified the cities that they recognized and that were most popular. In contrast, when the question was framed in a negative manner (lowest population), individuals circled the cities that they did not recognize, thus reducing the recognition effect. This relates to pre-trial publicity because if a juror recognizes certain information regarding a trial than he or she may be more apt to consider that information compared to the evidence presented at trial. Therefore, the framing of information and questions posed at trial should be carefully considered since framing can greatly influence juror decision-making.

Possible Remedies

Pretrial publicity has continuously shown to negatively affect the jury decision-making process. Remedies to decrease pretrial publicity have been offered such as changes to instructions given to jurors. Daftary-Kapur et al. (2010) argue that instructions should include a section to explain to the jurors why certain evidence and pretrial publicity should not be considered when making their decision. They suggest that this warning would be best given when evidence is presented and again at the end of the trial when the general instructions are given. Dermaine (2008) also suggests another change to the instructions, which would include the judge making the jurors aware of their biases so that they may ignore them when deciding on the verdict so that their decision can be fair. Past research done by Wilson and Brekke (1994) supports this change, suggesting that individuals who acknowledge biases are more able to correct them. Perhaps if the instructions were to include a portion that makes jurors aware of their biases, they will be better able to realize them and render more appropriate and less bias verdicts. Much research has supported the claim that jury instructions have little effect on biases from pretrial publicity and changes in the deliverance of those instructions have been continuously recognized (Studebaker & Penrod, 1997). The researchers suggest that when pretrial publicity is seen as an issue, instructions should be given before the trial and should heavily emphasize that the defendant is innocent until proven guilty. Past research also supports this claim. FosterLee, Horowitz, and Bourgeois (1993) found that mock jurors who were given instructions before the trial helped them to distinguish between substantial evidence from weak evidence and in analyzing information. These results suggest that changes need to be implemented to better address biases that may result from pretrial publicity.

Voir dire has also been suggested to help decrease the negative effects of pretrial

publicity. In this process, the jury members are questioned to expose any biases that they may have so that the jury can be as impartial as possible. However, research regarding the effectiveness of voir dire has yielded inconclusive results. An early study by Sue, Smith, and Pedroza (1975) presented mock jurors with negative or neutral pretrial publicity and a summary of a trial, to which they were asked to give a verdict. The researchers then asked the mock jurors if they would be able to ignore the pretrial publicity and make a fair and unbiased decision. They found that those who answered that they would not be able to give an unbiased decision were more likely to render a guilty verdict. These results may suggest that voir dire has a significant effect on reducing negative biases by weeding out impartial jurors, however, more recent research does not suggest the same. Dexter, Cutler, and Moran (1992) found that when voir dire was used to a greater extent it was more effective than when it was not, however, it did not significantly decrease the negative biases that individuals held due to pretrial publicity. These results suggest that voir dire may have a slight advantage, however, not to the degree as to counteract pretrial publicity. In addition, they found that voir dire had no significant impact on reducing biases of mock jurors, even when they were educated and made aware of their biases. The use of voir dire has been questioned with such results obtained by Freedman, Martin and Mota (1998). In their study they found that biases from pretrial publicity were increased after the use of voir dire. Perhaps this was from jurors becoming aware of their biases and not being able to ignore them. Research on the use of voir dire has presented conflicting results, yet is still widely used today to examine jurors.

In addition to instructions and voir dire, research suggests that when evidence is objected and found to be admissible, jurors are more likely to render a guilty verdict than when evidence that is given is not opposed (Daftary-Kapur et al., 2010). This suggests that lawyers should take

extra precaution when deciding what evidence to object to and what to allow. Another remedy that has been posed is the use of a continuance (Lieberman & Arndt, 2000). A continuance would postpone the trial until a given time to perhaps fade the negative effects of pretrial publicity. The court would review the case and publicity to decide if the publicity was severe enough to impede on an individual's right to a fair trial (Daftary-Kapur et al., 2010). Research regarding a continuance to reduce pretrial publicity has suggested being controversial. Steblay, Besirevic, Fulero, and Jimenez-Lorente (1999) found that biases were larger when the trial was delayed when compared to the trial occurring shortly after the pretrial publicity. Perhaps this is due to memory errors and longer discussions about the trial. In opposition, Kramer et al. (1990) found that a 12-day continuance for factual based trials reduced biases from pretrial publicity; however, a continuance did not reduce biases in emotional based trials. Although some research supports a continuance, publicity may occur during the delay, which reverses the intent of a continuance (Daftary-Kapur et al., 2010). When pretrial publicity is seen as severely damaging, a change of venue may be used as a remedy. When many individuals have been exposed to negative pretrial publicity, severe biases are bound to be a result. When this suggests being severe enough, the trial may be moved so that a fair trial may be given. However changing the location of the trial can have high costs and may not even reduce biases if the trial is a high profile case in which individuals in numerous locations have been exposed to media coverage. Pretrial publicity has constantly shown to have negative effects and greatly impact jurors. Many remedies have been put into use to help counteract the effects and reduce biases, however, some have suggested having minimal effects.

Instructions as a remedy to pretrial publicity. Instructions given to jurors have also suggested having an impact on decision-making. In their study, Kramer et al. (1990) exposed

participants to either factual or emotional pretrial publicity before giving one of two jury instructions that either advised jurors to ignore the publicity or did not give jurors any instructions against the previous publicity they had been exposed to. They found that instructions were ineffective at reducing the effects of both types of publicity and the verdict outcome did not differ depending on what set of instructions that they received. In addition, they found that jurors who were instructed were no more likely to question the credibility of pretrial publicity during the decision process. Also, instructions to ignore previous information suggested being counterproductive and strengthening the negative views of the defendant. In another early study, Horowitz (1988) gave two sets of instructions to jurors. Nullification instructions told the jurors that they should consider the law in their decision; however, it is their choice to apply the law. These individuals were compared to those who received standard instructions. It was found that individuals given the nullification instructions were more likely to acquit an individual who they felt sympathy towards. Those not given the nullification instructions tended to judge a defendant as more dangerous and harsher. Past research continues to support the finding that jury instructions have no effect on decreasing the negative effect of pretrial publicity. Sue, Smith, and Gilbert (1974) found that instructions to ignore pretrial publicity were ineffective in reducing any biases that they previously had due to media reports. Similarly, Fein, McCloskey, and Tomlinson (1997) also found that jury instructions to ignore any pretrial publicity that they may have come in contact with were ineffective at reducing biases and hearsay testimony. While much research has found ineffective results from instructions, it was found that instructions were effective when jurors were suspicious regarding inadmissible evidence (Lieberman & Arndt, 2000). However, this only applied to inadmissible evidence. They also argue that instructions create a backfire effect, which results in jurors being more likely to rely on information that they were instructed to

disregard. Perhaps this phenomenon is due to the instructions reminding the jurors of the pretrial publicity and the juror's inability to ignore the bias. The researchers also argue that jurors may not want to comply with instructions and want freedom to make their decision making them less likely to submit to instructions regarding what to consider and what to ignore when deciding the verdict.

When jurors do not fully understand the instructions given to them, then they cannot give an informed decision. Greene and Bornstein (2000) argue that perhaps it is vague instructions that result in jurors disregarding them and rendering verdicts that that may not be fully informed. They argue that instructions, specifically when deciding damages are extremely vague and jurors are left to decide the outcome with very little knowledge about the law. Perhaps this is why jurors are seen to have biases. They are left to make their decision with very little guidance so they must rely on their own beliefs to make the decision. These researchers also suggest that an additional reason why instructions can be ineffective is that they are told to apply legal models, in which they may not be familiar with, to evidence, testimony, and other facts that they have heard perhaps weeks or months prior to the instructions. The vague instructions of the unfamiliar legal system combined with evidence that they possibly have forgotten about can present a difficult situation for many jurors who may be left to rely on their own biases to make a decision that is ill informed. Even though much research has supported the lack of effect that instructions have on reducing biases from pretrial publicity, some studies have found positive results. In an early case, Kline and Jess (1966) gave half of the mock jurors negative pretrial publicity about the defendant and the other half received neutral pretrial publicity. They found that jury instructions that were given before the deliberations reduced jurors biases by helping them recognize that the negative news stories against the defendant should not be considered in the decision making process.

However, it was also found that the instructions did not prevent discussion about the pretrial publicity when deciding a verdict. In addition, Smith (1991) examined the effect of pretrial publicity on instructions given to the jury, examination and consideration of evidence, and comprehension of the law. It was found that those mock jurors who were given more instructions before and after the evidence was introduced were more likely to understand the law and use the evidence when making their decision compared to the previous publicity they had been exposed to when compared with jurors who had only been given instructions one time. However, the extent to which jurors pay attention to the law has been questioned. Hastie, Schkade, and Payne (1998) question to what extent jurors consider the legal processes when deciding the verdict for liability and punitive damages. They also argue that instructions in civil cases do not accurately guide jurors to help them make informed legal decisions, which often result in excessive and unnecessary awards. In order to assess these questions and if instructions can properly aid jury decisions, Hastie et al. (1998) conducted a study where jury eligible individuals were presented summaries of previously decided cases and given comprehensive instructions on the defendant's liability for punitive damages. They found that low comprehension of the case and its instructions greatly interfered with their decision process. In addition, it was also found that the mock jurors made their decision about liability without taking the law into full consideration. This study continues to support the idea that instructions are doing more harm than good since they do not adequately aid the jury in the decision making process.

Need for Affect and Cognition

Another aspect that is believed to impact jury deliberations is the need for cognition. It has been found that many jurors do not speak up and do not participate in the decision making process and it has been suggested that those who have a greater need for cognition are more apt to

take an active role when rendering a verdict (Shestowsky & Horowitz, 2004). Perhaps this is because individuals with a higher need for cognition have an increased drive to solve complex problems and engage in cognitive activities so they are more likely to participate in the decision and come up with a solution. Early studies have focused on how this need for cognition affects jurors. Mongeau (1989) found that jurors with a high need for cognition paid increased attention to more relevant information compared to those with a lower need. It was also found that both low and high need for cognition individuals can be equally persuaded by an argument, however, individuals with a higher need for cognition only believe that a position is correct if compelling information is presented. This information may suggest that individuals with a high need for cognition take more information into consideration and have a higher threshold for being convinced in complex matters. In another early study, Petty and Caccioppo (1979) found differences between individuals with high and low need for cognition when assessing cognitive performance, suggesting that those with a higher need for cognition are more motivated to think, rather than just having an increased ability to do so. They also state that research on the need for cognition is mainly directed by the Elaboration Likelihood Model (ELM). In this model, persuasion occurs by either one of two different ways. The first way in which persuasion can occur is through the central route, which includes heavy consideration of material that is related to the current issue to make judgments and decisions and is used only when motivation to analyze information is increased. The peripheral route occurs from a lack of development of information and is used when motivation to analyze information is decreased and when arguments are more persuasive. This model can be related to jury decision making since it helps to identify what persuades certain individuals and how people make choices based on certain characteristics such as need for cognition. More recently, Shestowsky and Horowitz (2004) conducted a study

examining the need for cognition in jury deliberations. In their first study, they found that as one's motivation to think increased, participation in the decision making also increased and that individuals with a high need for cognition took a much more active role. In study two, a strong or weak argument was given against the participants position, and it was found that high need for cognition individuals were still much more active in their response compared to low need for cognition individuals who were more quiet. These findings support past research in suggesting that individuals with a high need for cognition contribute more and tend to dominate the decision making process.

In addition to the need for cognition, need for affect can also influence persuasion and biases. See, Petty, and Fabrigar (2008) examined information and emotional seeking behavior and whether or not an individual's perceptions of his or her attitude and biases influences selective information interest and persuasion. Specifically, they researched whether individual's evaluations are affective or cognitive driven or affective or cognitive based. They found that those individuals who were more affective or cognitive driven were easier to predict the interest in selective information, which then translated into actual behavior. They also found that cognitive based messages influenced persuasion, especially when individuals thoughtfully responded, but not when they are impulsive about decisions. These findings imply that when individuals are given a certain message, their need for cognition and affect can direct them to act and depend on their emotions or cognitive beliefs so that they are more influenced and persuaded by the message. This article also suggests that perhaps those with need for affect and cognition results in a selective information bias. Individuals can also be persuaded by the manner in which the message is posed in and if they are cognitive or affective based. Haddock, Maio, Arnold, and Huskinson (2008) found that a commercial framed in a cognitive manner was significantly more

persuasive with those who had an increased need for cognition compared to the emotional commercial, which persuaded those with increased need for affect at a higher rate. Similarly, Mayer and Tormala (2010) examined whether identical statements made in terms of think or feel persuaded individuals differently and if the need for cognition or affect also influenced persuasion. They found that when the message was framed in an “I think” manner, individuals with a higher need for cognition were more persuaded by the message than were those with a higher need for affect. Likewise, the “I feel” message persuaded individuals with increased levels of a need for affect compared to cognition. In addition, men were found to be more responsive and persuaded by cognitive based messages, whereas women were found to be more persuaded by emotional messages based in affective frames. These finding can be related to decision making in jurors since evidence is often portrayed as emotional, such as victim testimony, and cognitive, such as DNA evidence. Perhaps the different types of evidence influences jurors in different manners depending on their level of need for affect or cognition which then effects their decision.

The Current Study

The present research is designed to examine whether and to what extent prior notification of civil settlement acts as an heuristic, providing both a feedback and framing effect on subsequent determinations of liability and awards. Considering very little research has been conducted on the effects of pretrial publicity in the civil area, our findings have the potential to provide useful and timely results. In determining whether prior notification acts as a primer in our context, we are also investigating the extent to which this notification acts in a similar manner to pretrial publicity. Namely, we expect to observe differences in awards as a function of both our manipulations: amount awarded and time delay. As a result, we propose the following hypotheses:

H₁: We expect a feedback effect: Greater settlements in phase one will result in greater awards in phase two. Specifically, participants exposed to prior notification of civil settlement resulting in greatest awards will award significantly more in damages compared to participants exposed to prior notification of lesser awards.

H₂: In addition, relevant to the concept of framing, it is hypothesized that awards in phase two will be similar to the amount awarded in phase one in the settlement summary.

H₃: Need for affect as well as need for cognition will significantly predict award determinations and perceptions of case-related information. High need for affect participants will award greater damages and will perceive the plaintiff more favorably compared to high need for cognition participants.

Method

Participants

The current study consisted of 123 participants (74 female, 49 male) with females represented the majority (60.2% females, 39.8% males). The data were collected at Roger Williams University from non-psychology students. Participants ranged between the ages of 18 and 25 years ($n = 123$, 100%). The majority of participants were Caucasian ($n = 82$, 66.7%) with others characterizing themselves as Hispanic ($n = 21$, 17.1%) and African American ($n = 16$, 13%). The majority considered themselves as slightly liberal ($n = 51$, 41.5%) or slightly conservative ($n = 27$, 22%). All participants had a valid driver's license ($n = 123$, 100%). The majority of the participants were registered voters ($n = 102$, 82.9%), however, none had served on a jury in a civil case ($n = 123$, 100%) or a criminal case ($n = 119$, 96.7%).

Materials and Procedure

In phase one, participants received one of three news summaries describing a civil settlement in a product liability case. The amount awarded to the plaintiff was manipulated as \$14 million, \$4.25 million, \$800,000, and a neutral article as the control variable. Participating instructors read a brief script, which directed the students to the amount awarded, and then read through the article. Three days or three weeks later in the second phase the materials consisting of informed consent, pre-test measures of affect and cognition, the case summary, and post-test measures of determinations of liability, damages and various attitudinal and demographics were administered to the same students. The questionnaire measuring need for affect and cognition consisted of 44 questions on a 5-point Likert scale. Such questions included 'I am a very emotional person' and 'I prefer complex to simple problems' to measure affect and cognition. The participants then read the summary of the case. The summary was of a product liability case in which liability and settlement amount was in question. Following the summary of the case, participants answered several questions. Such questions included negligence of the defendant, amount of money that should be awarded, their views of the defendant and plaintiff, the influence of the instructions, and blameworthiness on a 7-point Likert scale. See Appendix for all materials).

Results

Reliability Analyses

Reliability analyses were conducted separately on all items on both need for affect and need for cognition. The Need for Affect and Cognition Scale was computed into two separate variables to create two separate scales. Two new variables were computed to represent the total scores for total need for affect and total need for cognition. Preliminary analyses were conducted to ensure reliability within each measure. Need for Affect was recoded twice and had a good

Cronbach's $\alpha = .81$. Need for Cognition was recoded three times and also had a good Cronbach's $\alpha = .80$.

Hypothesis Tests

A Univariate analysis of variance was conducted to explore whether prior notification and delay of presentation affected determinations of award. Main effects were found for each of the independent variables as well as a significant article presentation interaction: $F(3, 115) = 2.86, p = .040$, partial eta squared = .069. The presentation manipulation had the greatest effect when the settlement award was \$14.75M. Specifically, participants who experienced a 3-week delay between reading the news article and reading the product liability case, awarded \$191,150 compared to participants who experienced only a 3-day delay – the average award for this group was \$1,164,722. Overall, the average award was \$317,140. A main effect was found for the type of news article: $F(3, 115) = 4.05, p = .009$, partial eta squared = .096. Post-Hoc comparisons using Scheffé test of multiple comparison indicated that the mean difference for the \$14.75M article ($M = \$677,936$ $SD = \$153,234$) was significantly different from the control article ($M = \$39,533$ $SD = \$16,047$). Finally, a main effect for delay of presentation was found: $F(1, 115) = 4.65, p = .033$, partial eta squared = .039. Participants presented with case materials 3 weeks after reading the news summary of a civil settlement awarded \$174,000 compared to those who read the article 3 days before - \$476,040. See Figure for graph of interaction effects on monetary award determinations.

A standard multiple regression analysis was conducted in order to determine whether the need for affect and cognition effected determinations of liability and damages. The need for cognition, the need for affect, and gender were the predictor variables and the view of the plaintiff was the criterion variable. No significance was found, however, need for cognition and gender

were statistically significant predictors of participant's perceptions of the defendant: $F(3, 119) = 5.79, p = .001, R^2 = .13$. The predictor variables explained 12% of the model's 14% variance. In addition, the need for cognition was negatively correlated to the perception of the defendant, suggesting that a lower need for cognition indicates a more sympathetic view of the defendant. Also, females were more likely to sympathize with the defendant.

Discussion

The current research examined the effects of prior notification of a settlement award on determinations of liability and damages in a product liability case. It was hypothesized that participants would utilize prior information as a basis for determining award, known as the framing theory (Depoorter, 2010). In addition, it was expected that the presentation of news article (3 days v. 3 weeks) would act as a moderator in the relation between amount of the award in the summary and determinations of award in our product liability case, known as the feedback effect.

The results provide partial support for the hypotheses. Specifically, participants experienced both a framing and feedback effect with respect to award. However, this effect was not found for participants who read the settlement summary indicating the plaintiff award as \$4.25M or \$800,000. This finding may be due to participants only significantly responding to and remembering the articles that was either very high or very low such as the \$14.75M and control article, which did not involve a monetary award. The framing theory was supported with those participants who received the \$14.75M article awarding the plaintiff with a significantly higher amount than those who received the control article (McCoy et al, 2010). This also supports previous research arguing that many individuals believe that large awards are common in the court system. This is perhaps due to the large overrepresentation of large cases that media often

covers. Large monetary awards draw the attention of individuals to a greater extent than lower awards. (Robbennolt & Studebaker, 2003). Perhaps this provides an explanation to as why the two extreme articles (\$14.75M and control) were significant. The extreme amounts in this study grabbed the attention of the participants such as high amounts in the media attracts more viewers.

In addition, the feedback effect was supported since participants who received the assessment only three days after the article in phase one awarded the plaintiff with a significantly higher amount compared to participants who received the assessment after three weeks. The participants who only had three days between the materials still had fresh memories of the phase one article which perhaps lead to them awarding more money in phase two. This suggests that pre-trial publicity that occurs right before the trial influences jurors at a greater extent than publicity that was seen weeks before. Even though this study is the first to examine the framing and feedback effect, these findings supports previous research stating that pre-trial publicity greatly influences jurors by using prior information to make a decision, thus making that individual not fully impartial (Studebaker & Penrod, 1997).

The hypothesis that individuals with a high need for affect will award the plaintiff with a larger award compared to individuals with a high need for cognition was not supported. However, the need for cognition was negatively correlated with views of the defendant. More specifically, those participants with a lower need for cognition had more sympathetic views of the defendant. Although this result was unexpected, they present interesting findings. However, these results hold partial support from past research. Mongeau (1989) found that jurors with a high need for cognition paid increased attention to more relevant information compared to those with a lower need. It was also found that both low and high need for cognition individuals can be equally persuaded by an argument, however, individuals with a higher need for cognition only believe

that a position is correct if compelling information is presented. This may provide a possibly explanation to the current findings. Perhaps the participants with high need for cognition considered the relevant information such as the injuries sustained by the plaintiff and expert testimony which resulted in those individuals not sympathizing with the defendant. Therefore, it is possible that the individuals with low need for cognition were not drawn to those aspects of the case and sympathized with the defendant. In addition, females were more likely to sympathize with the defendant compared to males. This finding does not support past research, which argues that males, rather than females are more responsive and persuaded by cognitive based messages (Mayer & Tormala, 2010). However, no other differences in gender were found in the research.

Limitations and Future Research

Despite these significant findings, the current study had some limitations that may have affected our findings. For example, the study utilized a sample of college students all between the ages of eighteen and twenty-four. As a result, there may have been validity issues associated with the representativeness of our sample as jurors. Future research should sample participants from different age groups in order to determine if the same individual differences are found in individuals that belong to the same cultural group or cohort. Also, there is the need to examine this type of research question using the most ecologically valid materials. Towards this end, future research should examine these factors through use of videotaped stimulus materials, a preferred method of presentation over written trial transcripts. Finally, although modest, our findings point towards the need for attorneys to be aware of prospective jurors' familiarity with notification of settlement as they appear to be treating this in the same manner as pre-trial publicity.

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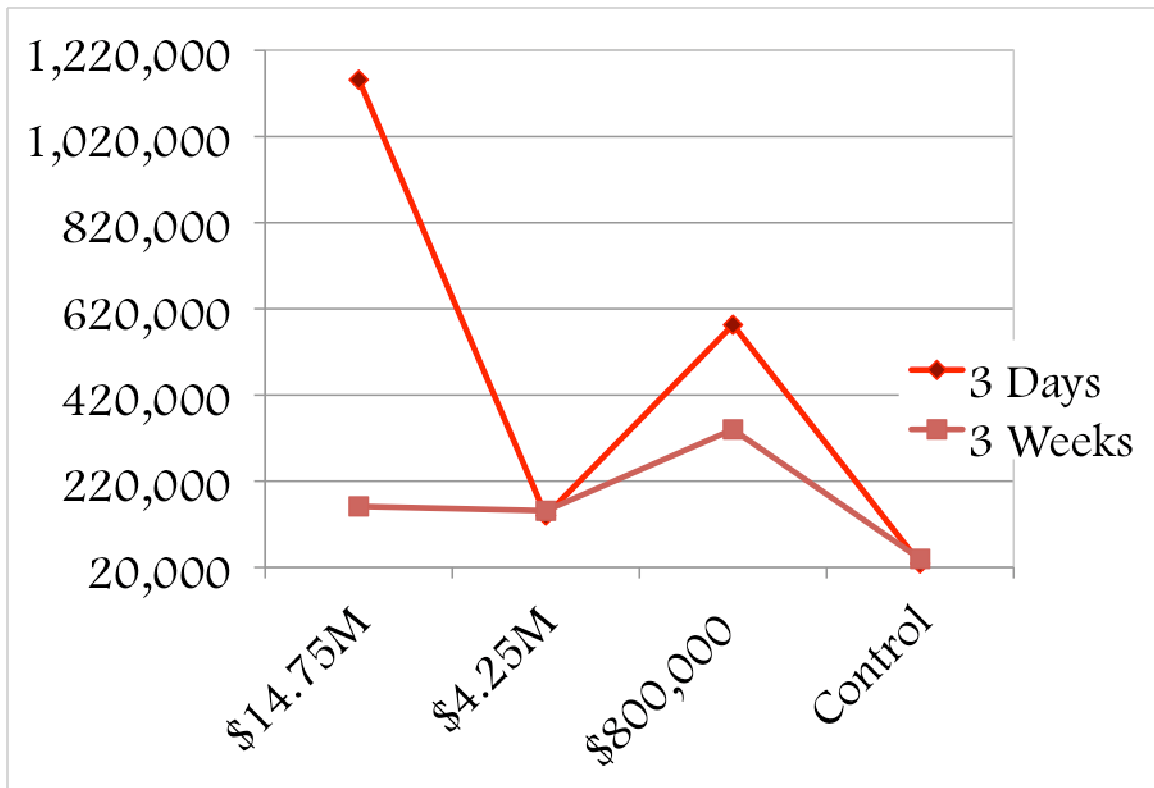
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Figure. Prior Notification by Presentation Delay Interaction on Monetary Awards



Appendix

**ROGER WILLIAMS UNIVERSITY
HUMAN SUBJECT REVIEW BOARD
COVER SHEET FOR NEW INDIVIDUAL RESEARCH PROJECT PROPOSALS**

Name of Principle Investigator: Jessica Crawford
 Date of Submission: August 31, 2010
 Department: Psychology
 School: Feinstein College of Arts and Sciences
 Name of Principle Investigators: Jessica Crawford and Judith Platania, Ph.D.
 Name of Faculty Advisor: Judith Platania, Ph.D.
 (required for student)
 Title of Study: The Effect of Notification of Civil Settlement on Verdict
 and Damage Awards in a Product Liability Case
 Grant funding support for study: None

Researcher code of ethics: I declare that I have read the Roger Williams University Statement of Researchers' Ethical Principles for the Protection of Human Subjects of Research and am familiar with my obligations hereunder. Furthermore, I agree to abide by that Statement of Ethical Principles adopted by Roger Williams University as part of the Human Subject Review Board policy.

Investigator's signature

Review status sought by principle investigator. Circle one using the guidelines published by the HSRB. Note that the HSRB may change the status of the review.

EXEMPT

EXPEDITED

FULL

Signature of Department Chair (where applicable)_____

Signature of Dean_____

For HSRB Board use only:

Committee decision regarding review statues:

EXEMPT

EXPEDITED

FULL

_____Approved

_____Resubmit

Signature of HSRB Chairperson

Date

Research Protocol Form for New Individual Research Project

Project Description

The present study will utilize a 4 x 2 between subjects' factorial design to examine the effects of prior notification of a settlement award on determinations of liability and damages in a product liability case. In phase one of the study, participants will be exposed to one of three news summaries describing a civil settlement in a product liability case. The amount awarded the plaintiff will be manipulated as \$14 million, \$4.25 million, and \$800,000. Participating instructors will read a brief script, which directs the students to the amount awarded, and then will read through the article. Two weeks later (the second phase), the student researcher administers the materials consisting of informed consent, pre-test measures of affect and cognition, the case summary, and post-test measures of determinations of liability, damages and various attitudinal and demographics. The case summary will include one of two types of judge's instructions regarding the use of outside information in reaching verdict and determining damages – specific instructions disallowing the use of outside information in determining verdict and damages and a general instruction with no mention of the above. We are interested in the influence of both factors on liability and damages; specifically we expect that instructions will moderate the relation between prior notification of civil settlement and determinations of liability and damages. Damage awards will be framed according to the damage awards presented in the respective article. Instructions will minimize the feedback effect of the respective article.

Participants

Participants will be a minimum of 160 undergraduates (non psychology students) from Roger Williams University.

Procedures and Methodology

Undergraduate students will participate as part of a course requirement or as extra credit. Participants will be informed that the study examines perceptions of the justice system and will be administered the informed consent sheet.

After obtaining informed consent participants will be administered a set of stimulus materials. After completing the items addressing the stimulus materials then will be thanked and debriefed. See Appendix for copies of all materials.

Proposed Analyses

A series of 4 (News Article: \$14M v. \$4.25M v. \$800,000 v. Control Article) x 2 (Instructions: General v. Specific) ANOVA's will be conducted. The dependent variables will consist of determination of liability, monetary damages, various attitudinal items and approximately 8 demographic items. In addition, we will assess the predictive utility of the pre-test measures of affect and cognition on liability and damage awards.

Consent Procedures and Data Confidentiality and Anonymity

This study will follow the guidelines set by the American Psychological Association. The participants will be fully informed of the procedures and told that they may discontinue their

participation at any time without prejudice or penalty. As stated previously, potential participants will be given the informed consent sheet, which outlines the basic purpose of the study and their requirements, should they decide to participate. In order to insure anonymity, absolutely NO NAMES or CODE NUMBERS will appear on any booklet. Additionally, informed consent sheets will be collected separately from the questionnaires. Hence, participants will be insured of full anonymity. Additionally, the data will be collected in such a way that no one, other than the researchers, will have access to the responses of the participants of the study. This will insure full confidentiality.

Consistent with the guidelines of the American Psychological Association, data will be stored in the office of the faculty member at least five years after the date of a potential publication.

Risks/Discomfort and Benefits to the Participants

It is believed that participants should experience no risks or discomforts. A potential benefit is that, based on the completion of the questionnaires, participants may come to have a better understanding of psychological research.

Informed Consent Form

Principal Investigators: Jessica Crawford and Judith Platania, Ph.D.

1. Purpose of the Study: This study will examine juror decision making in a civil trial. A minimum of 160 participants will be included in this study.

2. Procedures Experienced by Participants: By participating in this study, you will be asked to complete some items about yourself, and then read a summary of a civil trial. After reading the summary, you will then fill out a questionnaire regarding your attitudes towards the case summary. Participation should take approximately 15-20 minutes.

3. Confidentiality and Anonymity: Only the investigators listed above will have access to your responses, which will ensure your confidentiality. Additionally, your name will only be written on your consent form, which will be collected and maintained separately from your questionnaire. Thus, your responses will remain anonymous.

4. Your Rights: You have the right to decline participation without any penalties or prejudice because participation is strictly voluntary. Additionally, at any point in the study if you do not feel comfortable or no longer want to participate, you have the right to withdraw from the study without prejudice or penalty. You may also ask questions at any time during the course of the study and you may contact the primary investigator (whose name, email address and telephone number appear at the bottom of this form) at any time after you have participated in the study.

5. Risks and Benefits of being a Participant: No physical, psychological, or emotional risks are associated with this study. At any time during your participation, you are allowed to withdraw from this study without facing any penalties. A potential benefit is an increased understanding of how psychological research is conducted.

More Information: After participation, please feel free to contact Dr. Judith Platania in FCAS 104, by email at jplatania@rwu.edu, or telephone 254-5738 should you have any additional questions.

This certifies that I _____ have given my consent to participate in this

PRINT YOUR NAME

study, I am at least 18 years old or older. I have read and fully understand the content of this form.

PARTICIPANT'S SIGNATURE

DATE

This certifies that I have defined and informed the participant named above of all elements pertaining to this research study.

PRINCIPAL INVESTIGATOR

DATE

Experimental Materials

Kimberly-Clark Company Settles For \$4.25 Million Dollars**January 27, 2010**Posted In: [Jury Verdicts](#) , [Product Liability](#)By [Joseph Lamy](#) on January 27, 2010 4:13 PM | [Permalink](#) | [Comments \(0\)](#)

An Oregon man, Mr. Matthew Beale, has settled for a sizable sum in a [product liability suit](#) against Kimberly-Clark, which owns the company, I-Flow Corp. According to the lawsuit, I-Flow encouraged surgeons to insert a "pain pump" which supplies pain medication via a catheter to the affected area.

The settlement revealed that the Kimberly-Clark Company takes responsibility for a pain pump which was responsible for destroying the cartilage in Mr. Matthew Beale's right shoulder leaving the thirty-eight year old father of four permanently disabled. The story began in 2004 when Mr. Beale picked up a muscle injury playing football with his kids. He underwent arthroscopic surgery to repair the muscle at which time the surgeon also inserted the pain pump into the shoulder joint where it delivered medicine for several days. Mr. Beale began to recover but after six months found himself in excruciating pain. Mr. Beale now suffers from a condition called chondrolysis, which is a severe deterioration of cartilage. Essentially, his shoulder cartilage has been eaten away leaving "bone on bone" friction.

In November, after hearing of many chondrolysis cases, the FDA stated that they have never approved such devices for prolonged infusion of medicine to joints.

This case will set a tough precedent for Kimberly-Clark and I-Flow since they are currently facing hundreds of similar lawsuits from victims suffering from chondrolysis. Attorneys for the plaintiff were successful in proving that I-Flow did not conduct sufficient testing, nor did it warn of the potential dangers.

Kimberly-Clark Company Settles For \$14 Million Dollars

January 27, 2010

Posted In: [Jury Verdicts](#), [Product Liability](#)

By [Joseph Lamy](#) on January 27, 2010 4:13 PM | [Permalink](#) | [Comments \(0\)](#)

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The settlement revealed that the Kimberly-Clark Company takes responsibility for a pain pump which was responsible for destroying the cartilage in Mr. Matthew Beale's right shoulder leaving the thirty-eight year old father of four permanently disabled. The story began in 2004 when Mr. Beale picked up a muscle injury playing football with his kids. He underwent arthroscopic surgery to repair the muscle at which time the surgeon also inserted the pain pump into the shoulder joint where it delivered medicine for several days. Mr. Beale began to recover but after six months found himself in excruciating pain. Mr. Beale now suffers from a condition called chondrolysis, which is a severe deterioration of cartilage. Essentially, his shoulder cartilage has been eaten away leaving "bone on bone" friction.

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This case will set a tough precedent for Kimberly-Clark and I-Flow since they are currently facing hundreds of similar lawsuits from victims suffering from chondrolysis. Attorneys for the plaintiff were successful in proving that I-Flow did not conduct sufficient testing, nor did it warn of the potential dangers.

Kimberly-Clark Company Settles For \$800,000 Dollars

January 27, 2010

Posted In: [Jury Verdicts](#), [Product Liability](#)

By [Joseph Lamy](#) on January 27, 2010 4:13 PM | [Permalink](#) | [Comments \(0\)](#)

An Oregon man, Mr. Matthew Beale, has settled for a sizable sum in a [product liability suit](#) against Kimberly-Clark, which owns the company, I-Flow Corp. According to the lawsuit, I-Flow encouraged surgeons to insert a "pain pump" which supplies pain medication via a catheter to the affected area.

The settlement revealed that the Kimberly-Clark Company takes responsibility for a pain pump which was responsible for destroying the cartilage in Mr. Matthew Beale's right shoulder leaving the thirty-eight year old father of four permanently disabled. The story began in 2004 when Mr. Beale picked up a muscle injury playing football with his kids. He underwent arthroscopic surgery to repair the muscle at which time the surgeon also inserted the pain pump into the shoulder joint where it delivered medicine for several days. Mr. Beale began to recover but after six months found himself in excruciating pain. Mr. Beale now suffers from a condition called chondrolysis, which is a severe deterioration of cartilage. Essentially, his shoulder cartilage has been eaten away leaving "bone on bone" friction.

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Back to school with Bipolar? How College Can Unleash Inner Mania

September 21st, 2010

Posted in: Health.com

By Michele Hoos on September 21st, 2010

The rituals of college -- making new friends, studying until dawn, excessive partying -- can stress out any young adult. But students with bipolar disorder, or those at risk for the condition, are even more vulnerable in a college environment.

Academic pressures, social concerns, and sleep disruptions can lead to bouts of depression as well as mania, the euphoric, revved-up state characteristic of bipolar disorder.

Without the right treatment and support, bipolar college students face higher dropout rates, drug and alcohol abuse, and even suicide.

"The new structure and new stresses for [bipolar] students who leave home to go to school sometimes can trigger problems and relapses," says Dr. Richard Kadison, M.D., the chief of mental health services at Harvard University and the author of "College of the Overwhelmed: The Campus Mental Health Crisis and What to Do About It."

These stresses, he adds, can also trigger mania in students who have an underlying vulnerability to bipolar disorder. "Oftentimes, the first manic episode occurs in college," Kadison says. At its most severe, bipolar disorder is a dangerous condition that can lead to psychotic episodes and hospitalization. Milder forms of the disorder can cause problems as well, and can interfere with academic success.

A 2006 study in the *Journal of Affective Disorders* compared a group of bipolar adults with a group of healthy adults who had similar IQs and social backgrounds. More than 60 percent of both groups entered college, but their achievements differed greatly: Nearly half of the control group received a college degree, compared to just 16 percent of the bipolar group. Students with bipolar disorder can survive -- and even thrive -- in college, but doing so requires a plan. Taking the proper medications, arranging for the appropriate counseling and medical care on campus, avoiding drugs and alcohol, maintaining a steady sleep and study schedule, and finding sources of peer support are all crucial and can make the difference between achieving your goals and dropping out.

Faculty Script

I came across this article yesterday while conducting a bit of Internet research. I thought it was interesting in terms of the amount of the award in this case - \$ _____ is quite a large settlement.

It looks like this is just the first of many lawsuits for this company and this one didn't even go to trial.

- _____ I think that it is important to explore my feelings.
- _____ I find satisfaction in deliberating hard and for long hours.
- _____ I would love to be like “Mr. Spock,” who is totally logical and experiences little emotion.
- _____ I approach situations in which I expect to experience strong emotions.
- _____ I only think as hard as I have to.
- _____ I like decorating my bedroom with a lot of pictures and posters of things emotionally significant to me.
- _____ I find strong emotions overwhelming and therefore try to avoid them.
- _____ I prefer to think about small daily projects to long term ones.
- _____ I would prefer not to experience either the lows or highs of emotion.
- _____ I like tasks that require little thought once I’ve learned them.
- _____ I do not know how to handle my emotions, so I avoid them.
- _____ The idea of relying on thought to make my way to the top appeals to me.
- _____ Emotions are dangerous—they tend to get me into situations that I would rather avoid.
- _____ I really enjoy a task that involves coming up with new solutions to problems.
- _____ Acting on one’s emotions is always a mistake.
- _____ Learning new ways to think doesn’t excite me very much.
- _____ We should indulge our emotions.
- _____ I prefer my life to be filled with puzzles I must solve.
- _____ Displays of emotion are embarrassing.
- _____ The notion of thinking abstractly is appealing to me.
- _____ Strong emotions are generally beneficial.

_____ I would prefer a task that is intellectual, difficult, and important to one that is somewhat important but does not require much thought.

_____ People can function most effectively when they are not experiencing strong emotions.

_____ I feel relief rather than satisfaction after completing a task that requires a lot of mental effort.

_____ The experience of emotions promotes human survival.

_____ It's enough for me that something gets the job done; I don't care how or why it works.

_____ It is important for me to be in touch with my feelings.

_____ I usually end up deliberating about issues even when they do not affect me personally.

_____ It is important for me to know how others are feeling.

Specific Instruction

This is a summary of a civil case. The plaintiff has the burden of proving the elements of his or her case by what we call a preponderance of the evidence. That means that the plaintiff has to produce evidence that, when you consider it in light of all the facts, leads you to believe that what he or she claims is more likely true than not. To put it differently, if you were to put the evidence favoring the plaintiff on one side of a balance scale and the evidence favoring the defendant on the opposite side, the plaintiff has to make the scale top somewhat to his or her side in order to prevail.

It is the judge's responsibility to decide which laws apply to this case and to explain those laws to you. It is your responsibility to decide what the facts of this case may be, and to apply the law to those facts. Before proceeding further, it will be helpful if you understand how the following:

What the lawyers say is not evidence, and you are not to consider it as such. Expert witnesses however, are persons who are qualified, either by actual experience or by careful study, to form definite opinions with respect to a division of science, a branch of art, or a department of trade. The law deems persons having no such experience or training to be incapable of forming accurate opinions or drawing correct conclusions. Thus, if scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data; (2) the testimony is the product of reliable principles and methods; and (3) the witness has applied the principles and methods reliably to the facts of the case. After reading the case summary you are to consider your verdict. You should not form any definite or fixed opinion on the merits of the case until you have heard all the evidence, the argument of the lawyers and the instructions on the law by the judge.

Before reading through the case materials, you should be aware that you are to determine liability and damages based solely from the evidence presented in the case. Do not use information in the media or any publicity on the case or your reaction to publicity as a basis for judgment in the case. Any information you may have received before the actual evidence was presented is not relevant to the case information presented in these materials.

Summary of Case

The female plaintiff, age 46 at trial, alleged that the defendant printing press service company negligently failed to advise her that the safety mechanism on her printing press was not functioning. As a result, the plaintiff alleged she sustained permanent injuries to her dominant right arm when it was crushed under a portion of the press. The defendant maintained that it was not asked to perform a safety evaluation of the subject printing press and had no duty to advise the plaintiff concerning its safety features.

The plaintiff took over a print shop business, which included a printing press that was sold, installed and maintained by the defendant service company. The plaintiff was in the business of producing greeting cards. She testified that as she was checking the paper in the press, she lifted a glass and placed her arm in the chain delivery area of the press when the press unexpectedly activated. The plaintiff's mechanical engineer testified that the printing press short-circuited causing the unexpected cycle of the press. He testified that a safety mechanism, which should have prevented operation of the machine when the glass was raised, had been deactivated from the printing press. The plaintiff's expert also testified that the injury to the plaintiff's arm could not have occurred had the safety mechanism been in place at the time in question.

Evidence showed that the defendant had repaired the machine for the plaintiff some six months before the accident and had repaired it for the previous owners of the business over a period of approximately ten years. The prior owner testified that the printing press had always been operational with the glass in the "up" position. The plaintiff contended from this testimony that the defendant may have turned off the safety feature during repair of the press and, in any event, had a duty to warn the plaintiff that the safety feature was not functioning.

The plaintiff's orthopedic surgeon testified that the plaintiff sustained a crash injury of her dominant right arm as a result of the accident. She underwent open reduction and internal fixation for fractures to the ulnar and radius. The plaintiff's physician stated that the plaintiff has been left with a permanent disability of 28% of the whole body. She may also require future surgery to remove orthopedic hardware, according to her physician. The plaintiff claimed \$124,000 in past medical expenses and \$100,000 in future medical expenses. She returned to the operation of her business and did not make a claim for lost wages.

The defendant maintained that it was not its responsibility to warn the plaintiff concerning the condition of the printing press. The defendant argued that it would have performed a safety inspection if requested to do so, but had not been asked for that service. Furthermore, the defendant argued that when parts warranties had terminated, the plaintiff refused new parts and also refused to have the defendant return to the shop to provide the necessary service to the existing parts.

Demographics

Please place a check in the box that closely fits a description of you.

Your gender:

Male [1]

Female [2]

Into which of the following age categories do you fall:

18-24 [1]

25-3 [2]

35-44 [3]

45-54 [4]

55 or older [5]

Which of the following characterizes your background?

Caucasian [1]

Hispanic [2]

African-American [3]

Other [4]

How would you evaluate your political views?

Liberal [1]

Slightly Liberal [2]

Slightly Conservative [3]

Conservative [4]

Do you have a valid driver's license?

No [1]

Yes [2]

Are you a registered voter?

No [1]

Yes [2]

Have you ever served on a jury in a civil case?

No [1]

Yes [2]

Have you ever served on a jury in a criminal case?

No [1]

Yes [2]

Debriefing Sheet

Thank you for your participation in our study. We were interested in whether your views in this case represented a case presented to you earlier in the semester during class. Primarily we refer to this effect as framing and we are among the first to study this with respect to civil trials.

Thank you again for your willingness to be a part of our study. If you are interested in reading more on the role pretrial publicity please refer to this link: www.theadvocates.com for an interesting article on the role of pretrial publicity in jury decision-making.

Contact Information: Should you desire more information regarding this study, feel free to contact Dr. Judith Platania, x5738, jplatania@rwu.edu. If you experience any distress from this study please contact the University Counseling Center at 254-3124.